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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,978	07/22/2005	Luc Feyt	05102-PCT-PA	9260
<div>7590      08/29/2007</div> <div>Armstrong Kratz Quintos Hanson &amp; Brooks</div> <div>502 Washington Avenue</div> <div>Suite 220</div> <div>Towson, MD 21204</div>				
			<div>EXAMINER</div> <div>MRUK, BRIAN P</div>	
			<div>ART UNIT</div> <div>1751</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>08/29/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/530,978

Applicant(s)

FEYT, LUC

Examiner

Brian P. Mruk

Art Unit

1751

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

*Brian P. Mruk*  
Brian P Mruk  
Primary Examiner  
Art Unit: 1751

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that May et al, U.S. Patent No. 4,652,403, requires peroxy bleaching compounds in major levels, since the term "preferably", in relation to oxygen bleach, stands for usually, and since all of the examples contain oxygen bleaches. However, the examiner respectfully asserts that applicant has construed the phrase "capable of exhibiting bleachable stain removal in the absence of oxygen bleaches" that is recited in independent claim 1 to mean that the bleaching system is not an inventive parameter, and thus, that the composition may or may not include oxygen bleaches (see applicant's remarks dated January 25, 2007). Furthermore, the examiner asserts that 2% of a bleach disclosed by May et al in col. 3, line 59 is not a major level of bleach, and also maintains that the bleach component disclosed in May et al is optional, and thus, that May et al clearly discloses compositions that are free of bleach.

Applicant further argues that May et al, U.S. Patent No. 4,652,403, does not teach the required phosphonate component required in the instant claims. However, the examiner respectfully disagrees. Specifically, the phosphonate recited in col. 1, line 45 of May et al identically matches that alkylene polyamino polyphosphonate recited in claim 3 (i.e. when all four R groups in May et al are  $\text{CH}_2\text{PO}_3\text{M}_2$ , the compound matches instant claim 3 when n is 1, x is 0, and y is 0).

Applicant argues that the secondary reference of Kuzee et al, WO 99/64551, is non-analogous art, since Kuzee et al is directed toward industrial textile treatment, whereas the primary reference of May et al is directed toward laundry detergents. In response to applicant's argument that Kuzee et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the examiner asserts that Kuzee et al is both in the field of applicant's endeavor (i.e. detergent composition for laundry and/or textiles), and is pertinent to the particular problem with which the applicant was concerned (i.e. the addition of fructan polycarboxylic acids enhance stain removal in laundry and textile applications). It is also noted by the examiner that both the primary reference of May et al and the secondary reference of Kuzee et al are analogous, since the detergent compositions for treating laundry and textiles are analogous.